

CLAIM OF RHODE ISLAND FOR UNPAID BALANCE OF EXPENDITURES DURING THE WAR WITH SPAIN

JANUARY 26, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. WINTER, from the Committee on War Claims, submitted the following

REPORT

[To accompanying S. 3252]

The Committee on War Claims, to whom was referred the bill (S. 3252) entitled "Referring the claim of the State of Rhode Island for expenses during the war with Spain to the Court of Claims for adjudication," having considered the same, report thereon with a recommendation that it do pass without amendment.

The facts are fully set forth in Senate Report No. 605, Sixty-eighth Congress, first session, which is appended hereto and made a part of this report.

[Senate Report No. 605, Sixty-eighth Congress, first session]

The Committee on Claims, to whom was referred the bill (S. 3252) referring the claim of the State of Rhode Island for expenses during the war with Spain to the Court of Claims for adjudication, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The records show that numerous favorable reports have been made on similar bills for the relief of the State of Rhode Island in both the House and Senate, and that two of the bills have passed the Senate.

The facts are fully set forth in House Report No. 289, Sixty-eighth Congress, first session, which is appended hereto and made a part of this report.

[House Report No. 289, Sixty-eighth Congress, first session]

The Committee on War Claims, to whom was referred the bill (H. R. 913) entitled "Referring the claim of the State of Rhode Island for expenses during the war with Spain to the Court of Claims for adjudication," having considered the same, report thereon with a recommendation that it do pass with the following amendment:

Strike out lines 10 and 11 on page 1, and strike out lines 1, 2, 3, 4, 5, 6, and 7 on page 2.

The claim of the State of Rhode Island is made up of items as follows:

Item No. 1 is for the sum of \$4,360.21, being the unpaid balance of the sum of \$13,632.50, which the State claims to have expended in procuring and equipping its quota of volunteers in the war with Spain.

The individuals to whom this \$4,360.21 was paid by the State were not mustered into the service of the United States, but the State contends it is entitled to be reimbursed for this expenditure by the United States under the act of Congress approved July 8, 1898.

Item No. 2 is for the sum of \$10,287.24, being the unpaid balance of the State's claim for the services of its militia from the date of assembly at rendezvous to the date of muster into the service of the United States.

Whether or not this claim is valid depends upon the construction of the act of Congress approved March 3, 1899, in connection with statutes of the State providing for the pay of militia.

Item No. 3 is for the sum of \$1,727.77, being the amount paid by the State to its two batteries of militia from the date on which the State contends their services were tendered the United States until the date of actual muster into the service of the United States.

Item No. 4 is for the sum of \$1,257.31 which the State claims to have expended for the care of sick soldiers belonging to other State organizations.

These four items aggregate \$17,632.52. The bill does not ask for an appropriation, but refers the claim for a hearing to the Court of Claims and report to Congress. In effect the bill removes the statute of limitations which has run against the claim of the State of Rhode Island. The evidence shows that the State filed its claim with the War Department, some items of which were allowed and others (parts of which are the subject matter of this claim) were disallowed, but before the final decision of disallowance was handed down the statute of limitations had run.

Inasmuch as the above items of claim were disallowed by the accounting officers of the United States largely upon the construction of statutes relating thereto, your committee is of the opinion that the several items of the claim should be referred to the Court of Claims, where the law and the facts thereto may be judicially determined.

The following correspondence from the Acting Attorney General is appended hereto and made a part of this report:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., February 1, 1924.

HON. JAMES G. STRONG,
Chairman Committee on War Claims,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: This department is in receipt of a letter of January 28, 1924, from the clerk of the committee, referring H. R. 913 for consideration. The bill provides: "In adjudicating the said items of the claim the court is authorized to receive and accept, as prima facie evidence of the same, the certificate of the governor or adjutant general of the State, that the items were for the reasonable and necessary costs, charges, and expenses incurred in good faith by the State for the purpose of aiding the United States to raise its Volunteer Army in the war with Spain, believing that such expenditures would be reimbursed to the State by the United States."

In the judgment of this department this bill puts the entire burden upon the United States, and practically constitutes the governor or the adjutant general of Rhode Island the judge of all the facts necessary for the court's consideration. It were better to consider the bill with the above-quoted clause eliminated and let the State of Rhode Island prove its claim in accordance with the well-established rules of evidence and procedure.

Respectfully,

A. T. SEYMOUR,
Acting Attorney General.